

EX PARTE OR LATE FILED

Calcell Wireless, Inc.

2723 Easton Drive Burlingame, CA 94010 (415) 347-4757 Fax (415) 347-7998

June 2, 1994

43-266

Mr. William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
Washington, D. C. 20554

RECEIVED

JUN 2 1994

Dear Mr. Caton:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Albert Frazier and George Moore of Calcell Wireless met with Commissioners Chong and Ness to discuss PCS issues as they relate to minority participants. The attached briefing was presented to convey the perspective of the National Minority PCS Association consistent with Commission Ex Parte rules.

Sincerely,

Albert H. Frazier, Jr.
Albert H. Frazier, Jr.
President & CEO

DOCKET FILE COPY ORIGINAL

No. of Copies rec'd
List ABCDE

021

FCC BRIEFING

National Minority PCS Association

Alliance Telcom, Inc.
Advanced Concepts, Inc.
Calcell Wireless, Inc.
Dynaco, Inc.
GLS Associates, Inc.
Sonicraft Inc.
Valley Management, Inc.

June 2, 1994

National Minority PCS Association...

The National Minority PCS Association's seven member firms have joined forces to help create an environment where attractive opportunities exist for African-American firms interested in pursuing PCS.

We plan to pursue PCS business opportunities either collectively or individually.

Our member firms include:

**Alliance Telcom, Inc.
Advanced Concepts, Inc.
Calcell Wireless, Inc.
Dynaco, Inc.
GLS Associates, Inc.
Sonicraft Inc.
Valley Management, Inc.**

National Minority PCS Association...Objectives

For the PCS licensing structure and process to be successful in achieving the Congressional mandate of "providing participation opportunities for designated entities", the Commission must develop a spectrum licensing methodology that meets the following five objectives:

- 1) Ensure that designated entities end up as equity owners of licenses. This can most readily be accomplished through set-aside spectrum where designated entities bid against each other for licenses.
- 2) Provide assistance to designated entities in capital formation. Designated entities face significantly greater capital formation challenges than do other firms. The Commission can best assist in this area by allowing designated entities to pay for their licenses using a combination of modest up front payments coupled with installment payments payable over the life of the license.
- 3) Provide incentives for non-designated entities to joint venture or partner with designated entities. Bid credits and select waivers of attribution spectrum limits when firms partner with designated entities will provide the necessary incentives.

National Minority PCS Association...Objectives

- 4) Provide a license area, spectrum allocation and band location that does not disadvantage designated entities relative to other firms. Attractive opportunities for designated entities to acquire licenses must be available in desirable spectrum bands and territory sizes. Avoid the possibility of creating a designated entity "spectrum ghetto" where designated entities have smaller territories, smaller bandwidth spectrum in the less desirable upper frequency band.
- 5) Provide differential preferences among designated entities based on their real differences in obtaining access to capital. Not all designated entities have equal access to capital. Groups that have historically had more difficulty accessing capital markets such as women and minority-owned companies should have stronger preferences than other designated entity categories. Capital gains tax deferring tax certificates which encourage investment in women and minority-owned PCS ventures and that also encourage others to sell their wireless licenses to women and minority-owned companies would help accomplish this goal.

National Minority PCS Association...Preferences

Specific preference recommendations are provided below:

- 1. We recommend that the plan to create three 30 MHz blocks and three 10 MHz blocks in the lower band be adopted subject to the following:**
 - Bidding credits of at least 35% must be adopted for minority and women owned businesses in all spectrum blocks that have not been exclusively reserved for bidding among designated entities.**
 - One 10 MHz block be reserved for exclusive bidding among designated entities with women and minority firms receiving additional preferences relative to small businesses and rural telephone companies.**
 - The three 30 MHz licenses should be MTAs and the three 10 MHz licenses should be BTAs, aggregation should be allowed up to MTA facilitated through simultaneous bidding.**

National Minority PCS Association...Preferences

- 2. That the three 10 MHz blocks expected to cover the 1975-1990 MHz and 1895-1910 MHz bands be designated mobile satellite service (MSS) status on a secondary basis. This will facilitate integration of ground and satellite PCS providers.**
- 3. The 50.1% equity ownership standard is too high for most minority-controlled firms to meet. We recommend a minimum of 50.1% voting control, and 35 to 40% equity ownership, by members of qualified ethnic minority groups, plus a minority as company head required for definition as a minority company.**
- 4. Eligibility requirements for women-owned status should include 50.1% equity ownership and voting control, plus a woman as company head.**
- 5. Cellular and LEC prohibitions against owning more than a 10 MHz license where they have a qualifying interest in a 25 MHz cellular license should be waived and increased to 20 MHz if they partner with a woman or minority owned business. The minority firm must have 50.1% ownership or more in the venture.**

National Minority PCS Association...Preferences

- 6. Installment payments for minority-owned firms should be payable principal deferred for three years at the government's cost of borrowing. Principal repayment should cover the last seven years of the 10 year life of the license.**
- 7. Designated entities should be able to resell their licenses without unjust enrichment penalties once one-third of the population in a given license area is served and definitely after the initial 10 year license period is over.**
- 8. The FCC should adopt a modified version of Calcell Wireless's Infrastructure Preference proposal providing an additional 10% bidding credit to any firm that agrees to the summarized on the following page. This preference would apply to all spectrum blocks.**

National Minority PCS Association...Preferences

Overall Objectives	<ul style="list-style-type: none"> • An Infrastructure Preference calls for a commitment by the preference holder to: <ul style="list-style-type: none"> - Revitalize designated enterprise zones and other impoverished inner city or rural areas¹ - To provide a wireless communications infrastructure in these areas at an expedited pace.
Performance Objective	<ul style="list-style-type: none"> • PCS service will be provided in designated enterprise zone areas one full year ahead of the FCC mandated build-out requirements for the overall territory covered by the license.
Economic Opportunity Objectives	<ul style="list-style-type: none"> • The headquarters for the PCS license holder will be located within the boundaries of a designated enterprise zone. • 50% of the branch offices of the license holder will be located in designated enterprise zones, or 50% of the workforce will be employed in company locations within designated enterprise zones. • Infrastructure preference holders will agree to employ a work force that reflects the demographics of its licensed market and includes racial minorities as a percentage of the total workforce equal to or greater than their percentage of the overall population in the licensed market. • The license holder will dedicate at least 1% of its annual operating budget to specific education and job training programs for socially and economically disadvantaged employees. • The license holder will award 10 percent of its capital expenditures and supply contracts to firms women and minority firms, with a minimum of 5 percent of the total purchases from minority-owned firms.

¹ In some rural trading areas there may not be any designated enterprise zones. In such cases Calcell suggests defining other impoverished areas as the locations to meet requirements specified for designated enterprise zones. Criteria should center on helping areas with unusually high unemployment rates and with per capita incomes of 70% or less of the trading area as a whole. Local economic development agencies could define such zones prior to the auctions.

National Minority PCS Association...Preferences

In exchange for committing to the infrastructure preference requirements listed above, eligible firms would receive a 10% bidding credit and be subject to the following :

- The preference holder would be expected to provide evidence that they are in compliance with the infrastructure preference requirements annually. Compliance monitoring would be conducted by the local economic development agency.**
- If a company fails to meet one or more of the infrastructure preference requirements after having been granted an infrastructure preference, then full payment of the bid credit amortized at 10% annually plus interest for that year would be required. However, the company may apply for a special hardship exemption if failure to comply is caused by extenuating circumstances. In this case the monitoring agency would decide whether to require full payment or seek only partial payment if it deems the application for hardship worthy.**
- The rules for the bidding credit will remain in effect even if a company changes management or ownership as long as the new owners continue to meet the infrastructure preference requirements.**

National Minority PCS Association...Preferences

- **If a firm or group submits winning bids on multiple licenses and receives infrastructure preferences for multiple licenses, then the infrastructure preference requirements apply to all of the licenses held by the company (that received an infrastructure preference bid credit) or entity on a combined basis, rather than for each individual license. At its option, a preference holder could ask to be evaluated on a license by license basis.**